

BOARD OF COUNTY COMMISSIONERS AGENDA ITEM SUMMARY

Meeting Date: November 17, 2004

Division: Growth Management

Bulk Item: Yes ☒ No

Department: N/A

AGENDA ITEM WORDING: Approval of a Memorandum of Understanding (MOU) between the Florida Department of Community Affairs (DCA) and Monroe County replacing existing agreement to provide for exemption of certain development orders.

ITEM BACKGROUND: Under Chapter 380, Florida Statutes, the County is required to submit all development orders to DCA. DCA has the authority to appeal any development order issued by the County that it finds inconsistent with the Comprehensive Plan, Land Development Regulations, and Principles for Guiding Development.

This new agreement replaces the existing one between DCA and the County and further expands the categories of permits that are exempt from DCA review. The terms of the new agreement will further reduce the administrative costs of permitting and the wait-time for permits to become effective.

PREVIOUS RELEVANT BOARD ACTION: The BOCC approved the existing MOU between the DCA and County in October 2000, which revised a previous MOU approved in February 1995.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS: Approval

TOTAL COST: N/A

BUDGETED: Yes No

COST TO COUNTY: N/A

SOURCE OF FUNDS:

REVENUE PRODUCING: N/A

AMOUNT PER MONTH	Year
------------------	------

APPROVED BY: County Atty X OMB/Purchasing Risk Management

DIVISION DIRECTOR APPROVAL:

~~Timothy J. McGarry, AICP~~

DOCUMENTATION: Included X To Follow _____ Not Required _____

DISPOSITION: _____

AGENDA ITEM # *K-3*

**MEMORANDUM OF UNDERSTANDING (MOU)
BETWEEN THE FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS
AND MONROE COUNTY
FOR A COORDINATED PERMIT REVIEW PROCESS FOR DEVELOPMENT**

This Memorandum of Understanding ("MOU") is being entered into by and between the State of Florida Department of Community Affairs ("DCA") and The County of Monroe ("Monroe County") to provide better coordination between DCA and Monroe County in the implementation of provisions of Chapter 380, Florida Statutes, and the Monroe County Comprehensive Plan and Land Development Regulations.

WITNESETH

WHEREAS, Monroe County is within an area that has been declared an Area of Critical State Concern pursuant to Section 380.05 and 380.0552, Florida Statutes, and has adopted a comprehensive plan and land development regulations, approved by the State as required by law; and

WHEREAS, Monroe County is required to issue development orders only in conformity with its approved Comprehensive Plan and Land Development Regulations; and

WHEREAS, DCA is authorized to appeal development orders to the Florida Land and Water Adjudicatory Commission when DCA determines that the development order was issued inconsistent with the Comprehensive Plan, Land Development Regulations and Principles for Guiding Development; and

WHEREAS, DCA is the state land planning agency authorized to administer the provisions of Chapter 380, Florida Statutes, and has promulgated rules in Chapter 9J-1, Florida Administrative Code (F.A.C.), to provide for the form and manner of the renditions of development orders issued by local governments within Areas of Critical State Concern; and

WHEREAS, DCA as provided in Rule 9J-1.002(3), F.A.C., does hereby exempt certain categories of Monroe County development orders from DCA review except those herein enumerated; and

WHEREAS, DCA and Monroe County do mutually agree as follows:

I. Required Renderings.

- A. As provided in Rule 9J-1.002(3), F.A.C., DCA may, on its own initiative or at the request of an affected governmental entity, provide in writing that particular types or categories of development orders shall be exempt from rendition to the DCA Field Office for review. In accordance with this provision of this Rule, the Department exempts all development orders from rendition to the Field Office except for the following types and categories of development orders:

- (1) Any development order for the construction or expansion of the footprint of any principal structure located within any of the following Vegetation Codes on the Existing Conditions Maps: 411, Slash Pineland; 426, Tropical Hardwood Hammock; 740.1, Disturbed with Hammock; 640, Saltmarsh and Buttonwood Associations; 641, Freshwater Wetlands; 710, Beach with Associated Berm.
- (2) Any development order for the construction or change in footprint of any structure which is located on a turtle beach or which requires a Habitat Evaluation Index (HEI).
- (3) Any development order for the construction, expansion, or redevelopment of a hotel or motel.
- (4) Any conditional use approvals for the following: new non-residential development over 2,500 sq. ft. in floor area; Transfer of ROGO Exemptions (TRE) for receiver sites only, involving transient residential uses or that require clearing of hammock or pineland; institutional residences; community parks located in a hammock or pineland or on No Name or Big Pine Key; or any development activity that provides temporary or permanent transient residential uses; and new marinas or the expansion of existing marinas.
- (5) Any development order for the construction, expansion, or redevelopment of institutional, public building, research, educational or other non-residential uses located on Big Pine Key or No Name Key.
- (6) Any development order for the construction or expansion of the footprint of any principal residential structure located in a Tier 1 or Tier 2 area on Big Pine or No Name Key.
- (7) Any development order for the conversion of mobile home and/or recreational vehicle (RV) parks.
- (8) Any development order for the construction, expansion, or replacement of a principal residential structure located in an AICUZ overlay area.
- (9) Any development order for maintenance dredging.
- (10) Any amendments to the Land Use District Maps.
- (11) Any development order for a variance from floor area ratio requirements of the County's Land Development Regulations.
- (12) Any development agreement.

- B. Notwithstanding Part A above, individual building permits issued under a conditional use order rendered to and not appealed by DCA shall be exempt from this rendering requirement, unless specifically requested by DCA on a case-by-case basis.

II. Miscellaneous.

If any term or provision of this Memorandum of Understanding shall be invalid or unenforceable to any extent, the remaining terms and provisions shall not be affected thereby; and each remaining term and provision shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms and provisions would prevent the accomplishment of the original intent of this agreement between the parties.

III. Modifications.

Modifications to this MOU shall only be valid when they have been reduced to writing and duly signed by each of the parties, except as otherwise provided for under Section IV.

IV. Terminations.

Either party may terminate this MOU at any time, with or without cause. Termination shall take effect one week or five (5) working days, whichever is earlier, after receipt of written notification as evidenced by a certified mail return receipt.

V. Notification.

All notices must be in writing and addressed as follows (or to any other address which either party may designate by written notice): (DCA) Rebecca Jetton, Community Planning, 2555 Shumard Oak Blvd., Tallahassee, FL 32399-2100; (County) Mayor, Monroe County Board of County Commissioners, 1100 Simonton Street, Key West, Florida 33040 with a copy to the Director of Growth Management, Monroe County Growth Management Division, 2798 Overseas Highway, Suite 400, Marathon, Florida 33050.

VI. Effective Date.

This Memorandum of Understanding shall become effective upon execution by both parties, and shall end upon the termination of the Florida Keys Area of Critical State Concern designation, unless terminated earlier pursuant to Section IV above.

VII. Replacement of Existing MOU.

This Memorandum of Understanding supercedes and replaces the previous MOU for a coordinated permit review process for development signed by DCA on December 1, 2000.

IN WITNESS WHEREOF, the parties have executed this Agreement.

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY: _____
MAYOR/CHAIRMAN

DATE: _____

ATTEST: DANNY L KOLHAGE, CLERK

BY: _____
DEPUTY CLERK

Approved for Legal Sufficiency:

BY: KLU

DATE: 10.28.04

STATE OF FLORIDA DEPARTMENT OF
COMMUNITY AFFAIRS

BY: _____
SECRETARY

DATE: _____

Approved for Legal Sufficiency:

BY: _____

DATE: _____